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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,274	12/31/2003	Thomas E. Donahue	37805.0100	1715

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Daniel R. Pote  
SNELL & WILMER LLP  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-2202

EXAMINER
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CUMARASEGARAN, VERN

ART UNIT	PAPER NUMBER
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3629

NOTIFICATION DATE	DELIVERY MODE
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07/09/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

<b>Office Action Summary</b>	<b>Application No.</b> 10/750,274	<b>Applicant(s)</b> DONAHUE ET AL.	
	<b>Examiner</b> VERN CUMARASEGARAN	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 49-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-53 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/15/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-48, drawn to a system and method of managing real property where owners, tenants and vendors can communicate and request and fulfill services, classified in class 705, subclass 1.
- II. Claims 49-52, drawn to a method of managing real property using a set of value drivers, classified in class 705, subclass 1.
- III. Claim 53, drawn to a method of increasing the value of rental property, classified in class 705, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions I and II are not capable of use together since invention I does not have a feature to allow it to define value drivers which invention II requires. Also, because invention II requires the definition of value drivers that invention I does not require, the two inventions have different designs. Invention III is directed to increasing the value of a rental property, whereas inventions I and II are directed to managing a rental property. Thus the two sets of inventions have different designs and are not capable of use together.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election

shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Charles F. Hauff Jr. on July 1, 2008 a provisional election was made with traverse to prosecute the invention of I, claims 1-48. Affirmation of this election must be made by applicant in replying to this Office action. Claims 49-53 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 and 49-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 uses the term "and/or." It is unclear whether the word "and" or "or" should be used when reading the claim. Also, the use of the word "coordinate" makes the scope of the claim unclear since coordinating can encompass many different actions. Further clarification should be provided on these terms.

Claim 49 uses the term "value driver." It is unclear what is meant by the term. Examiner interprets the term to be a budget or cost value.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 40-48 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A "property management platform" does not belong in any of the statutory classes.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruben et al (US 7,143,048 B1) in view of Holden et al (US 2002/0002579 A1).

**As to claims 1 and 21**, Ruben et al show a tenant system associated with a tenant residing at the rental property, said tenant system coupled to a network (col.17 lines 15-20);

an owner system associated with an owner of the rental property, said owner system coupled to said network (col.17 lines 15-20);

a plurality of provider systems coupled to said network, each of said provider systems associated with a provider configured to provide goods or services to said tenant and/or said rental property (col.17 lines 31-36 "vendors");

a property management system coupled to said network and configured to communicate with said tenant system, said owner system, and said plurality of provider systems over said network (col.17 lines 15-35).

Ruben et al do not expressly discuss managing two streams of income. However, Holden et al show a property management system configured to coordinate an income stream from tenant to owner, said income stream having a first component and a second component, wherein said first component of said income stream is derived from a rental obligation of said tenant, and said second component of said income stream is derived from said property management system's coordination of said plurality of providers in response to a request received from said tenant system (paragraph 72).

**As to claims 2-4, 22-24 and 41-43**, the first component of income stream being less than the second component is a matter of choice for the owner and one of ordinary skill in the art would have been able to choose based on whatever decision would yield the maximum profit. Moreover, it is old and well known in the art to operate a property rental business where the income from the actual rent maybe less than that derived from other services offered. For example, car (another form of property) rental agencies are known to offer a daily rate that includes a certain number of miles and any miles driven over that amount is charged at a certain per mile rate. The car rental agencies also offer optional insurance as additional services. If a customer were to drive enough miles over the allotted daily amount of miles, and select optional insurance, the daily rental rate would be less than the payment made for the additional miles and the insurance.

**As to claims 5 and 44**, Ruben et al show repair request module (Table 4).

**As to claims 6 and 25**, Ruben et al show receiving, over said network, an



electronic repair request from said tenant system; sending, over said network, a receipt confirmation to said tenant system reflecting the receipt of said repair request; coordinating , over said network, with said plurality of providers to schedule initiation of a service responsive to said repair request; sending, over said network, a completion confirmation to said tenant system reflecting completion of said service (col.12-14).

**As to claims 7 and 30**, Ruben et al show the use of wireless devices (col.15 lines 12-16).

**As to claims 8 and 31**, Holden et al show repair request module communicating with materials inventory system (paragraph 71).

**As to claims 9, 32 and 48**, Ruben et al show an accounting system (col.4 lines 23-25).

**As to claims 10 and 33**, Ruben et al show a performance metrics system (col.4 lines 20-22).

**As to claims 11, 12, 26 and 27**, it is old and well known in the art to have a GPS component in a property management system. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the GPS component in the property management system of Ruben et al.

**As to claims 13 and 28**, Ruben et al show an automated work-order assignment component (abstract).

**As to claims 14 and 29**, Ruben et al show a weighing system (col.15 line 4).

**As to claims 15, 34 and 45**, Ruben et al show a tenant concierge service (col.12 lines 1-4).

**As to claims 16, 35 and 46**, Ruben et al show an administrative module (Table 4).

**As to claims 17, 36 and 47**, the brokerage services module is considered non-functional descriptive language since it does not functionally affect the system and thus is not given patentable weight.

**As to claims 18 and 37**, it is old and well known in the art to have a packet-switched network. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate a packet-switched network in a property management system.

**As to claims 19, 20, 38 and 39**, Ruben et al show the network being the internet (abstract).

**As to claim 40**, Ruben et al show a server configured to communicate over a network with the owner, tenant and vendors (Fig.2); a database operatively coupled to server (Fig.2, 1A).

Ruben et al do not expressly discuss managing two streams of income. However, Holden et al show a property management system configured to coordinate an income stream from tenant to owner, said income stream having a first component and a second component, wherein said first component of said income stream is derived from a rental obligation of said tenant, and said second component of said income stream is derived from said property management system's coordination of said plurality of providers in response to a request received from said tenant system (paragraph 72).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Hodges, Kevin      US 20050102152 A1  
Eder, Jeff Scott      US 20050119900 A1  
Thielges, Bart C. et al.      US 20020138289 A1  
Pianin, Carolyn      US 20020062218 A1  
Gale, Donald et al.      US 20010025250 A1  
Saenz, Javier et al.      US 20030216966 A1  
Senker; James D.      US 7028003 B2  
Florance, Andrew et al.      US 20040030616 A1  
Greenlee, George Richard JR.      US 20010037273 A1  
Labeledz; Frank et al.      US 6993576 B1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERN CUMARASEGARAN whose telephone number is (571)270-3273. The examiner can normally be reached on Monday - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vc

/John G. Weiss/  
Supervisory Patent Examiner, Art Unit 3629